

## EOIR FOIA Processing (EOIR)

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**From:** Burr, Sarah (EOIR)  
**Sent:** Wednesday, March 17, 2010 2:34 PM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** (b) (6) updates

I had Felicia fax a copy of a federal civil rights action filed against (b) (6) by a detainee by the name of (b) (6). It was sent to Deborah's attention. I read it and it does not look worrisome to me, but I'm no expert on that type of claim. Marta Rothwarf has been in touch with Judge (b) (6) about this matter.

Regarding a complaint made about Judge (b) (6) by (b) (6) another detainee, the original letter I sent him in February has been returned. I have reviewed the ROP and the same allegations he makes were made in an appeal to the BIA. The BIA dismissed his appeal a few weeks ago. I am sending you a copy of the letter that is going out to (b) (6) who we located at (b) (6) County Jail in (b) (6). Basically, I did not find his allegations to be substantiated by the record. (b) (5)  
(b) (5)

Sarah M. Burr  
Assistant Chief Immigration Judge  
26 Federal Plaza  
New York, N.Y.

4059; 5901

Cc: Fong, Thomas (EOIR)  
Subject: In preparation for your PWP review with me on Jan 6

# Non-Responsive

Thomas Y.K. Fong  
Assistant Chief Immigration Judge  
Immigration Court/EOIR/DOJ  
606 South Olive Street, 15th Floor  
Los Angeles, CA 90014  
(213) 894-3906 (b) (6)  
thomas.fong@usdoj.gov

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**From:** Keller, Mary Beth (EOIR)  
**Sent:** Monday, May 10, 2010 11:49 AM  
**To:** Fong, Thomas (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** (b) (6)

Tom,  
This one came back from BIA on 9/30/09, referred to you on 10/05/09. I don't have a resolution. Let us know how you want to record conclusion –  
Tx.  
mtk

*MaryBeth Keller*  
Assistant Chief Immigration Judge  
EOIR/OCIJ  
703/305-1247  
mary.beth.keller@usdoj.gov

4162

5/10/2010

**Keller, Mary Beth (EOIR)**

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**From:** Sukkar, Elisa (EOIR)  
**Sent:** Friday, May 14, 2010 6:21 PM  
**To:** Keller, Mary Beth (EOIR)  
**Cc:** Moutinho, Deborah (EOIR); Morris, Florencio (EOIR)  
**Subject:** FW: (b) (6)  
**Importance:** High

Dear MTK:

This is pursuant to your request.

After I sent this e-mail to IJ (b) (6) called me right away. We discussed this matter. My handwritten notes reflect that on October 13, 2009 a discussion was had as to the sarcastic comments. One comment was that the respondent had traveled and the IJ commented that she was tanning while on vacation and claiming persecution.

We agreed to meet again after (b) (6) further reviews the decision. My handwritten notes reflect that we met again on November 3, 2009 at 11:40 am in my chambers. We had a second discussion. (b) (6) acknowledged the comments were sarcastic. I reminded (b) (6) of the PWP and that these were things we would be looking at for determining a Satisfactory or Needs Improvement rating. Told (b) (6) to keep it boring. There was no need to make such comments. (b) (6) has learned his lesson. (b) (6) discussed the OPR investigation on (b) (6). (b) (6) was professional and respectful. We ended the discussion at 12:15 pm.

Please close this one as being address by ACIJ and that the IJ was counseled.

Thank you. EMS

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**From:** Sukkar, Elisa (EOIR)  
**Sent:** Tuesday, October 13, 2009 3:22 PM  
**To:** (b) (6) (EOIR)  
**Subject:** (b) (6)

Dear Judge (b) (6)

I would like to discuss the above matter in light of the comments from the BIA which found some of the statements that were made as part of the oral decision to have been sarcastic. The alien number is (b) (6). (b) (6) and I would like for you to review the decision from the BIA and your oral decision before we discuss the comments made by the BIA. I do note that the oral decision itself was rendered in 2005 and pre-dates additional training which was provided to you.

I will be at the (b) (6) IC tomorrow and Thursday but will be in the office next week. If you need any assistance, please let me know.

Thank you. Judge Sukkar

4187
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**Keller, Mary Beth (EOIR)**

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**From:** Burr, Sarah (EOIR)  
**Sent:** Wednesday, November 18, 2009 11:55 AM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** RE: Other (b) (6) cases

Mary Beth, I'm going to do a (b) (6) redux once I get a free moment. That will probably be early next week. Sarah

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**From:** Keller, Mary Beth (EOIR)  
**Sent:** Monday, November 16, 2009 4:02 PM  
**To:** Burr, Sarah (EOIR)  
**Subject:** Other (b) (6) cases

Sarah,  
The following are the items that I don't believe have updates on regarding Judge (b) (6).

Matter of (b) (6)  
Mater of (b) (6)  
Matter of (b) (6)  
Matter of (b) (6)  
Matter of (b) (6) we discussed sending to OPR but did not)

Apologies if I have this info somewhere and am missing it, it's very possible.

I am attaching the whole db on (b) (6) for you.

(b) (5)

mtk  
*MaryBeth Keller*  
Assistant Chief Immigration Judge  
EOIR/OCIJ  
703/305-1247  
mary.beth.keller@usdoj.gov

4207; 4232

4/30/2010

**Keller, Mary Beth (EOIR)**

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**From:** Burr, Sarah (EOIR)  
**Sent:** Tuesday, December 01, 2009 4:09 PM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** this and that

Mary Beth, I have reviewed (b) (6) cases and we can discuss whatever you would like to discuss, at your convenience. Also, have you heard anything from OPR on Judge (b) (6) and Judge (b) (6) referrals? Speaking of OPR, have they issued a final report on (b) (6) I'm leaving early today, but you can reach me tomorrow or Thursday at (b) (6) Thanks, Sarah

Sarah M. Burr  
Assistant Chief Immigration Judge  
26 Federal Plaza  
New York, N.Y.

4208

4/30/2010

## **Moutinho, Deborah (EOIR)**

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**From:** Stockton, Bette (EOIR)  
**Sent:** Friday, May 28, 2010 4:05 PM  
**To:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Mary Beth Keller Documents

*DM*

That is so succinct and exactly what I did. Thank you for your expertise.  
Bette S

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**From:** Moutinho, Deborah (EOIR)  
**Sent:** Friday, May 28, 2010 12:16 PM  
**To:** Stockton, Bette (EOIR)  
**Subject:** RE: Mary Beth Keller Documents

Hmmm for #145 we don't have a category for that... How about we close it out with oral counseling... (b) (5) [REDACTED] d

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**From:** Stockton, Bette (EOIR)  
**Sent:** Friday, May 28, 2010 3:09 PM  
**To:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Mary Beth Keller Documents

(b) (5) [REDACTED] as

Complaint #11 (as you stated is perfect).  
Thank you,  
Bette S

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**From:** Moutinho, Deborah (EOIR)  
**Sent:** Friday, May 28, 2010 8:44 AM  
**To:** Stockton, Bette (EOIR); Keller, Mary Beth (EOIR)  
**Subject:** RE: Mary Beth Keller Documents

Good Morning Judge Stockton

Here are a few questions I encountered while entering your data:

Complaint # 145 (b) (6) [REDACTED], I have the date of 5/27 as the closed date, but what would the reason be -- Complaint Dismissed -- can not be substantiated?? Or something else??

Complaint # 11 (b) (6) [REDACTED] was closed out on 5/11 with oral counseling

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**From:** Stockton, Bette (EOIR)  
**Sent:** Thursday, May 27, 2010 8:07 PM  
**To:** Keller, Mary Beth (EOIR); Moutinho, Deborah (EOIR)  
**Subject:** FW: Mary Beth Keller Documents

I am sending the hard copy of these by mail tomorrow. Hope you can read them. I now it is too much info. My usual problem.  
Bette S

**Keller, Mary Beth (EOIR)**

---

**From:** Burr, Sarah (EOIR)

**Sent:** Wednesday, November 18, 2009 11:55 AM

**To:** Keller, Mary Beth (EOIR)

**Subject:** RE: Other (b) (6) cases

Mary Beth, I'm going to do a (b) (6) redux once I get a free moment. That will probably be early next week.  
Sarah

---

**From:** Keller, Mary Beth (EOIR)

**Sent:** Monday, November 16, 2009 4:02 PM

**To:** Burr, Sarah (EOIR)

**Subject:** Other (b) (6) cases

Sarah,

The following are the items that I don't believe have updates on regarding Judge (b) (6)

Matter of (b) (6)  
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Matter of (b) (6) we discussed sending to OPR but did not)  
Matter of (b) (6)

Apologies if I have this info somewhere and am missing it, it's very possible.

I am attaching the whole db on (b) (6) for you.

(b) (5)

mtk

*MaryBeth Keller*

Assistant Chief Immigration Judge

EOIR/OCIJ

703/305-1247

mary.beth.keller@usdoj.gov

4232; 4207

(b) (6) file

**Keller, Mary Beth (EOIR)**

**From:** Burr, Sarah (EOIR)  
**Sent:** Wednesday, May 26, 2010 12:04 PM  
**To:** Keller, Mary Beth (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** corrections to (b) (6) IJ complaint report  
(b) (6); complaint #159  
On oral counseling line, it should be marked closed.

(b) (6) complaint # 68  
On 4/9/10 line put that ACIJ is considering as part of larger disciplinary issue.

(b) (6) complaints #180 and 149  
On 12/9/06 line and 4/12/07 put that conduct occurred prior to retraining in November, 2007. Counseled on this issue on Jan. 26, 2010 as part of PWP conference. Will be addressing same issue in 7/10 progress report. I would mark both of these as "Closed", since it is a continuing area of counseling and retraining. I do plan to have (b) (6) attend some mandated training at the IJ conference.

(b) (6), complaint 147.  
I do not think this is properly included as a complaint. It's really a pro se motion to reopen. In May of 2010 I brought the alien's correspondence to Judge (b) (6) and suggested that (b) (6) deem it a pro se motion to reopen. The judge will rule on it in due course.

(b) (6), complaint # 21  
On 3/17/10 line, add that IJ orally counseled about some of the rather blunt language (b) (6) used in court with the respondent.

(b) (6) complaint # 156  
Decision issued by IJ on 7/17/09. Complaint should be marked closed.

(b) (6): a complaint should be opened based on the (b) (6) Circuit decision in (b) (6) (b) (6), where (b) (6) Circuit where the (b) (6) Circuit remanded to another IJ because (b) (6) created an appearance of bias or hostility, rendering the proceedings fundamentally unfair. Found the judge abrogated (b) (6) responsibility to be a neutral arbiter by relying on speculation, unfounded and generalized conclusions about sexual orientation, and fundamentally misunderstanding the basis for the alien's claim. (b) (6) Circuit ruled on (b) (6).

Resulted in an OPR investigation. March 19, 2010, OPR concluded that (b) (6) engaged in professional misconduct when (b) (6) engaged in comments about respondent's sexual orientation and further, that (b) (6) exercised poor judgment in criticizing a judge of coordinate jurisdiction.

ACIJ has provisionally proposed 2 day suspension, but pending at ELR for letter to IJ.

(b) (6) complaints # 62, 55, 175 and 150 should all be updated to indicate that all of these cases are being considered as part of the proposed suspension and the ELR letter.

That's it! Thanks, SMB

Sarah M. Burr  
Assistant Chief Immigration Judge  
26 Federal Plaza  
New York, N.Y.

4233; 4245

1/26/2011



(b) (6) file

**Keller, Mary Beth (EOIR)**

**From:** Burr, Sarah (EOIR)  
**Sent:** Wednesday, May 26, 2010 12:04 PM  
**To:** Keller, Mary Beth (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** corrections to (b) (6) IJ complaint report  
(b) (6); complaint #159  
On oral counseling line, it should be marked closed.

(b) (6) complaint # 68  
On 4/9/10 line put that ACIJ is considering as part of larger disciplinary issue.

(b) (6) complaints #180 and 149  
On 12/9/06 line and 4/12/07 put that conduct occurred prior to retraining in November, 2007. Counseled on this issue on Jan. 26, 2010 as part of PWP conference. Will be addressing same issue in 7/10 progress report. I would mark both of these as "Closed", since it is a continuing area of counseling and retraining. I do plan to have (b) (6) attend some mandated training at the IJ conference.

(b) (6), complaint 147.  
I do not think this is properly included as a complaint. It's really a pro se motion to reopen. In May of 2010 I brought the alien's correspondence to Judge (b) (6) and suggested that (b) (6) deem it a pro se motion to reopen. The judge will rule on it in due course.

(b) (6), complaint # 21  
On 3/17/10 line, add that IJ orally counseled about some of the rather blunt language (b) (6) used in court with the respondent.

(b) (6) complaint # 156  
Decision issued by IJ on 7/17/09. Complaint should be marked closed.

(b) (6): a complaint should be opened based on the (b) (6) Circuit decision in (b) (6) (b) (6), where (b) (6) Circuit where the (b) (6) Circuit remanded to another IJ because (b) (6) created an appearance of bias or hostility, rendering the proceedings fundamentally unfair. Found the judge abrogated (b) (6) responsibility to be a neutral arbiter by relying on speculation, unfounded and generalized conclusions about sexual orientation, and fundamentally misunderstanding the basis for the alien's claim. (b) (6) Circuit ruled on (b) (6).

Resulted in an OPR investigation. March 19, 2010, OPR concluded that (b) (6) engaged in professional misconduct when (b) (6) engaged in comments about respondent's sexual orientation and further, that (b) (6) exercised poor judgment in criticizing a judge of coordinate jurisdiction.

ACIJ has provisionally proposed 2 day suspension, but pending at ELR for letter to IJ.

(b) (6) complaints # 62, 55, 175 and 150 should all be updated to indicate that all of these cases are being considered as part of the proposed suspension and the ELR letter.

That's it! Thanks, SMB

Sarah M. Burr  
Assistant Chief Immigration Judge  
26 Federal Plaza  
New York, N.Y.

4245; 4233

1/26/2011

**Moutinho, Deborah (EOIR)**

**From:** Fong, Thomas (EOIR)  
**Sent:** Tuesday, May 25, 2010 5:23 PM  
**To:** Fong, Thomas (EOIR); Keller, Mary Beth (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: (b) (6)

I should clarify the information below and note that the date is **May 4, 2009**. **Corrective non-disciplinary action of oral counseling** was given and well received. Matter closed on that date, but was still part of the PWP review held with IJ (b) (6) again on January 27, 2010.

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 Immigration Court/EOIR/DOJ  
 606 South Olive Street, 15th Floor  
 Los Angeles, CA 90014  
 (213)894-2811 (b) (6)  
 thomas.fong@usdoj.gov

**From:** Fong, Thomas (EOIR)  
**Sent:** Monday, May 24, 2010 3:16 PM  
**To:** Keller, Mary Beth (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: (b) (6)

Mary Beth,

This matter was discussed the week after receipt of the case referral from the BIA. I met with IJ (b) (6) **May 4** in my office to discuss the case. As soon as I raised the case and issue (b) (6) interrupted me and stated (b) (6) knew the case I was referring to (b) (6) was expecting it back. (b) (6) conceded that (b) (6) personal views had taken over in (b) (6) ruling on the case. (b) (6) admitted (b) (6) was in error in letting it the facts of the case affect (b) (6) as it "did get to me", (b) (6) stated.

I counseled (b) (6) about avoiding putting (b) (6) personal views into rulings and (b) (6) readily agreed and stated that (b) (6) must "separate personal views from (b) (6) judicial responsibilities." This counsel was readily received and (b) (6) realized (b) (6) error even before the remand and had already been retrospective on what (b) (6) needed to avoid in order not to repeat such rulings.

I consider this matter closed with counseling given as corrective action on that date. Nevertheless, we again discussed this case at (b) (6) PWP review on January 27<sup>th</sup>, 2010 as a reminder. Tom

Thomas Y.K. Fong  
 Assistant Chief Immigration Judge  
 Immigration Court/EOIR/DOJ  
 606 South Olive Street, 15th Floor  
 Los Angeles, CA 90014  
 (213)894-2811 (b) (6)  
 thomas.fong@usdoj.gov

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Monday, May 24, 2010 12:17 PM

4263

5/26/2010

**Keller, Mary Beth (EOIR)**

**From:** Sukkar, Elisa (EOIR)  
**Sent:** Tuesday, June 15, 2010 5:00 PM  
**To:** Keller, Mary Beth (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: (b) (6) update?

MTK and Deborah:

I am going to meet with IJ (b) (6) tomorrow. I have 2 matters that I want to go on record to address with (b) (6). They relate to the format of (b) (6) decisions. (b) (6) apparently just received a BIA decision that (b) (6) wanted to discuss with me. I told (b) (6) that I had a few matters to address with (b) (6). We agreed to meet tomorrow.

I know these do not appear on the latest report that Deborah sent out but I will sit down with IJ nevertheless to close out any loops:

(b) (6) (BIA June 9, 2009) The IJ's decision was in 2002 and was affirmed twice by BIA. But in 2009, they made a comment about (b) (6) format and they vacated the IJ's and their own two previous decisions.

(b) (6) (BIA February 20, 2009) (b) (5) the only issue here was that the BIA found the credibility determination of the IJ to be clearly erroneous. That is a decision the IJ made on the merits and that was (b) (6) determination. Absent any unusual or unnecessary commentary, it is best to close out. I believe it may be closed out already but if it shows pending anywhere please indicate that upon review by the ACIJ, the matter was properly addressed as an appealable issue by the parties and the BIA.

The one I cannot find is the (b) (6) IJC memo. Could you please forward? It seems from MTK's comments that the decision was informal but no criticism by BIA.

It also seems that the IJ received one today saying the decision was "terse". I have not seen that one but will review with IJ tomorrow. All of these cases relate to the format of (b) (6) decisions, a matter that has been addressed with IJ before.

Will keep you posted. Thanks. EMS

---

**From:** Sukkar, Elisa (EOIR)  
**Sent:** Tuesday, June 15, 2010 4:18 PM  
**To:** Sukkar, Elisa (EOIR)  
**Subject:** FW: (b) (6) pdate?

FYI

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**From:** Keller, Mary Beth (EOIR)  
**Sent:** Tuesday, June 08, 2010 2:35 PM  
**To:** Sukkar, Elisa (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** FW: (b) (6) update?

Elisa,  
 Same thing wrt to (b) (6), which also came back in Feb 2009. IJ dec informal, but no criticism by bia.  
 I've attached an email between us genlly discussing.

4322; 4345

11/1/2010

Let me know how you want to "close out."

Tx.

mtk

---

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Tuesday, June 08, 2010 2:31 PM  
**To:** Sukkar, Elisa (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** (b) (6)(b) (6)update?

Elisa,

(b) (6) came back from BIA in 2/2009. (b) (6) (b) (5)  
I don't have a record of resolution. Was this one dismissed as merits based, or?

Tx.

mtk

*MaryBeth Keller*  
Assistant Chief Immigration Judge  
EOIR/OCIJ  
703/305-1247  
mary.beth.keller@usdoj.gov

4323

11/1/2010

**Keller, Mary Beth (EOIR)**

**From:** Sukkar, Elisa (EOIR)  
**Sent:** Tuesday, June 15, 2010 5:00 PM  
**To:** Keller, Mary Beth (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: (b) (6) update?

MTK and Deborah:

I am going to meet with IJ (b) (6) tomorrow. I have 2 matters that I want to go on record to address with (b) (6). They relate to the format of (b) (6) decisions. (b) (6) apparently just received a BIA decision that (b) (6) wanted to discuss with me. I told (b) (6) that I had a few matters to address with (b) (6). We agreed to meet tomorrow.

I know these do not appear on the latest report that Deborah sent out but I will sit down with IJ nevertheless to close out any loops:

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(b) (6) (BIA February 20, 2009) (b) (5) the only issue here was that the BIA found the credibility determination of the IJ to be clearly erroneous. That is a decision the IJ made on the merits and that was (b) (6) determination. Absent any unusual or unnecessary commentary, it is best to close out. I believe it may be closed out already but if it shows pending anywhere please indicate that upon review by the ACIJ, the matter was properly addressed as an appealable issue by the parties and the BIA.

The one I cannot find is the (b) (6) IJC memo. Could you please forward? It seems from MTK's comments that the decision was informal but no criticism by BIA.

It also seems that the IJ received one today saying the decision was "terse". I have not seen that one but will review with IJ tomorrow. All of these cases relate to the format of (b) (6) decisions, a matter that has been addressed with IJ before.

Will keep you posted. Thanks. EMS

---

**From:** Sukkar, Elisa (EOIR)  
**Sent:** Tuesday, June 15, 2010 4:18 PM  
**To:** Sukkar, Elisa (EOIR)  
**Subject:** FW: (b) (6) pdate?

FYI

---

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**Sent:** Tuesday, June 08, 2010 2:35 PM  
**To:** Sukkar, Elisa (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
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Elisa,  
 Same thing wrt to (b) (6), which also came back in Feb 2009. IJ dec informal, but no criticism by bia.  
 I've attached an email between us genlly discussing.

4345; 4322

11/1/2010

**Moutinho, Deborah (EOIR)**

---

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Friday, November 26, 2010 9:58 AM  
**To:** Moutinho, Deborah (EOIR)  
**Cc:** Romig, Jeff (EOIR)  
**Subject:** (b) (6) FY2009

Deborah,  
I spoke w/ Judge Romig about the two (b) (6) matters, 316 and 317. He will probably be sending the forms on these soon, but heads up because the db was showing some funny stuff – i.e., two (340/341) were showing open when they aren't.

ACIJ Romig will send you the date on 316, which was an oral counseling – performance.

317 should be closed out as merits-based, and we should use the date that we used to close out 340 and 341 — they were all interrelated in that they involved clients of the same attorney.

I don't know why those two – 340-341 are still showing up as open, - they are not showing on the open listing, but they are when you go into (b) (6)

Help!

Tx.

mtk

*MaryBeth Keller*

Assistant Chief Immigration Judge

EOIR/OCIJ

703/305-1247

mary.beth.keller@usdoj.gov

## EOIR FOIA Processing (EOIR)

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**From:** Burr, Sarah (EOIR)  
**Sent:** Wednesday, January 26, 2011 2:30 PM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** RE: (b) (6) complaint 349

I agree that it should be closed as being addressed by subsequent training.

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**From:** Keller, Mary Beth (EOIR)  
**Sent:** Wednesday, January 26, 2011 2:23 PM  
**To:** Moutinho, Deborah (EOIR)  
**Cc:** Burr, Sarah (EOIR)  
**Subject:** (b) (6) complaint 349

D -

This is an old one, still showing as OPEN in the DB. (b) (6) where BIA remanded to another IJ citing Islam. Judge called r an "unmitigated liar." The judge's conduct occurred 1/31/2006. WRT to another complaint, Judge Burr indicated:

put that conduct occurred prior to retraining in November, 2007. Counseled on this issue on Jan.26,2010 as part of PWP conference. Will be addressing same issue in 7/10 progress report. I would mark both of these as "Closed", since it is a continuing area of counseling and retraining. I do plan to have (b) (6) attend some mandated training at the IJ conference.

(b) (5)

Tx.  
mtk  
*MaryBeth Keller*  
Assistant Chief Immigration Judge  
EOIR/OCIJ  
703/305-1247  
[mary.beth.keller@usdoj.gov](mailto:mary.beth.keller@usdoj.gov)

4463

(b) (5) is  
(b) (6) I will do the PWP and speak about  
the (b) (6) case after (b) (6) returns on October 18<sup>th</sup>.

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**From:** Keller, Mary Beth (EOIR)  
**Sent:** Tuesday, October 05, 2010 10:52 AM  
**To:** Burr, Sarah (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: (b) (6)

Ok.  
I have one open complaint pending on (b) (6) from July 7 – BIA decision in (b) (6) (complaint #359). (b) (5)

(b) (5)

Was that covered in (b) (6) pwp interim?

Tx.  
mtk

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**From:** Burr, Sarah (EOIR)  
**Sent:** Tuesday, October 05, 2010 9:10 AM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** RE: (b) (6)

Non-Responsive

---

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Friday, October 01, 2010 12:00 PM  
**To:** Burr, Sarah (EOIR)  
**Subject:** (b) (6)

Non-Responsive

*MaryBeth Keller*  
Assistant Chief Immigration Judge  
EOIR/OCIJ  
703/305-1247  
[mary.beth.keller@usdoj.gov](mailto:mary.beth.keller@usdoj.gov)

4504





## U.S. Department of Justice

Executive Office for Immigration Review

800 Dolorosa Street  
Washington Square, Suite 300  
San Antonio, Texas 78207  
March 18, 2011

Immigration Judge (b) (6)

(b) (6)

Dear Judge (b) (6)

While you were on detail, the Board of Immigration Appeals (BIA) noted your lack of professionalism in the following cases in which you were the Immigration Judge: *Matter of* (b) (6) (b) (6), and *Matter of* (b) (6). You made similar unprofessional remarks in *Matter of* (b) (6). Although you have been previously disciplined for similar conduct, I have decided not to take formal disciplinary action related to these matters. However, this letter will serve as a formal counseling memo, and I will take these cases into account when evaluating your performance.

In (b) (6) the BIA noted intemperate and impatient comments and remanded for hearing before another judge. A sampling of your comments includes: "Give me a break, she rescheduled this hearing. Correct? Correct?" (T14.) "I don't believe that for a moment. Listen, sir. . . . "Well, that was their legal advice to you and you didn't like it, correct?" (T15.) "I don't want the reason, sir, your not being candid, accurate, or truthful. . . . Oh, pure nonsense. All right, sir, you're representing yourself today. Listen. Listen. Stop talking. Stop talking. You are not controlling these proceedings. You can have a tantrum, I don't care." (T 18.) "Then stop acting like a child." (T 19.)

In (b) (6) the BIA noted intemperate and sarcastic comments during the hearing. For example, "Why don't you try listening?" (T16.) "Why don't you pick one answer and stick with it?" (T29.) "Well, my goodness. I guess we shouldn't have this hearing today. . . ." (T 30.) "I am not forgiving people—that's not my job. You have confused me with somebody else who wears a robe, sir." (T31.) "Well, so much for your telling me the truth that you have never seen an application before." (T36.) "Sir, what part of swearing to tell the truth do you not know?" (T46.)

In (b) (6) the BIA also remanded for trial before another judge. The transcript reveals the following unprofessional remarks: "That makes no sense, Counsel, to ask me to reconsider and you're telling me that there's no basis to reconsider." (T12.) "Try thinking about my

**From:** Burr, Sarah (EOIR)  
**Sent:** Friday, February 04, 2011 3:06 PM  
**To:** Keller, Mary Beth (EOIR); Moutinho, Deborah (EOIR)  
**Cc:** Rosenblum, Jeff (EOIR)  
**Subject:** IJ (b) (6)

Here is my chronology on complaints about IJ (b) (6) intemperate behavior on the bench:

12/12/06: written complaint by (b) (6) District Counsel, (b) (6), to David Neal alleging inappropriate courtroom demeanor, offensive and unprofessional conduct, as well as personal attacks on TAs. Also, cuts off TA cross.

1/10/07: ACIJ does oral counseling.

2/17/10: Letter from DDC (b) (6) to ACIJ that IJ puts too much pressure on TAs to shorten hearings by cutting off cross and trying to force TAs to take short decisions. Also, BIA decision in (b) (6) where BIA criticizes IJ for "regrettable disagreements" with TA on the record, doing direct exam of respondent when represented by accredited rep., and cutting off TA cross. Remanded so TA can do full cross.

2/17/10: ACIJ does oral counseling and advised IJ not to cut off TA cross.

1/11/11: Email from TA to (b) (6) DDC, to ACIJ regarding 2 cases (on same day) where IJ pressured and intimidated the respondent's attorney and violated the attorney-client privilege ( I attached the email to the fax I sent you today). On the same day, 1/11/11, I gave a copy of the (b) (6) email and spoke with IJ. Told (b) (6) I would listen to the DAR recordings and get back to (b) (6). Over the next several weeks I did listen to the DAR recordings and the TA's summary contained in the email is accurate.

2/4/11: spoke to IJ today. (b) (6) has not listened to the DAR recordings and I told (b) (6) to do so. I told (b) (6) that I was surprised and upset by (b) (6) conduct, and that given (b) (6) experience, (b) (6) was demeaning (b) (6) by acting like this in court. IJ very sorry about (b) (6) conduct. Says (b) (6) felt sick about it afterwards and is still regretful that (b) (6) acted in such a manner. We spoke for 15-20 minutes about controlling anger and irritation in court and what (b) (6) can and cannot do about lawyers who are not prepared.

Sarah M. Burr  
Assistant Chief Immigration Judge  
26 Federal Plaza  
New York, N.Y.

4683

2/28/2011

Moutinho, Deborah (EOIR)

**From:** McGoings, Michael (EOIR)  
**Sent:** Friday, May 27, 2011 10:03 AM  
**To:** Moutinho, Deborah (EOIR)  
**Subject:** FW: Two BIA Referrals for (b) (6)

Deborah - I followed up with ACJ (b) (6) after receipt of this email and conducted oral counseling with (b) (6) on Thursday, May 26, 2011. Judge (b) (6) accepts full responsibility for (b) (6) actions in these two BIA referrals and is confident that they will not reoccur.

Michael C. McGoings

Deputy Chief Immigration Judge

---

**From:** (b) (6) (EOIR)  
**Sent:** Wednesday, May 25, 2011 7:14 PM  
**To:** McGoings, Michael (EOIR)  
**Cc:** (b) (6) (EOIR)  
**Subject:** Two BIA Referrals for (b) (6)

Good Afternoon Judge McGoings,

Knowing how busy you are and the efforts you have made to talk with me about these two BIA referrals due to my intemperate conduct in court, I thought it may assist you if I sent you this email.

The first one is A (b) (6). I have reviewed pages 5 through 8 of the November 13, 2003 transcript and it is clear I should not have encouraged the respondent and his attorney in the proceeding to withdraw his application for asylum. I had prepared the case and knew that the respondent had disavowed much of the information contained in the application on which he was interviewed at the Asylum Office. However, I had no right to demand that he proceed on that application or withdraw it that day. I recognize this was a violation of his due process rights which impacted him later when he filed his Motion to Reopen to proceed on an application for asylum after his spousal petition was no longer viable and he had no other relief in immigration court. Honestly, I am most embarrassed that the matter was remanded to a different judge and realize how poorly my conduct reflects on the entire judge corps.

The second one is A (b) (6) - (b) (6). I have reviewed the entirety of this referral and recognize that my offhanded remarks to the attorney representing the government about the "bad list" by which I was referring to aged cases was completely inappropriate and should never have been mentioned in open court. I recall this case distinctly because I was most frustrated with the lack of assistance from the National Visa Center to schedule the respondent for his consular appointment for his visa based upon his wife's approved petition. Nevertheless, I should have kept my anger in check and acted professional. Also, I realize that my comments about the long working hours and time spent on the bench in a case I heard the day before should not have been mentioned because it had nothing to do with the circumstances of the case of (b) (6).

The Board decision refers to my impatience regarding delays in the respondent's case and tells me clearly that these comments are misplaced. I accept and agree with that valid criticism. Despite my impatience, the decision I rendered was complimentary of the respondent and discussed all the equities present in this case even though I held that he was unable to establish the requisite exceptional and extremely unusual hardship to his qualifying relatives if he had to return to Guatemala.

I accept full responsibility for these indiscretions. Each day I am on the bench I strive to have patience and conduct a full and fair hearing without bias. I am very sorry for these lapses. Please feel free to call me anytime if you want to discuss these referrals further.

Sincerely,

(b) (6)

Sincerely,

(b) (6)

4726, 4792

5/27/2011

**Moutinho, Deborah (EOIR)**

---

**From:** McGoings, Michael (EOIR)  
**Sent:** Friday, May 27, 2011 10:03 AM  
**To:** Moutinho, Deborah (EOIR)  
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Michael C. McGoings

Deputy Chief Immigration Judge

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**Subject:** Two BIA Referrals for (b) (6)

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I accept full responsibility for these indiscretions. Each day I am on the bench I strive to have patience and conduct a full and fair hearing without bias. I am very sorry for these lapses. Please feel free to call me anytime if you want to discuss these referrals further.

Sincerely,

(b) (6)

4792; 4726

Sincerely,

(b) (6)

5/27/2011

## EOIR FOIA Processing (EOIR)

---

**From:** Burr, Sarah (EOIR)  
**Sent:** Wednesday, June 29, 2011 2:49 PM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

Fine.

---

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Wednesday, June 29, 2011 11:31 AM  
**To:** Burr, Sarah (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

Sarah,  
There is no disposition that captures "moot", so, my suggestion instead of using the "other" code is to call this merits based and dismiss it on that basis. (b) (5)

(b) (5)  
If so, we will close it out with that disposition as of the 6/24/2011 date of your email below.

Let me know if that is ok.

Tx.

mtk

---

**From:** Burr, Sarah (EOIR)  
**Sent:** Friday, June 24, 2011 12:17 PM  
**To:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

With regard to complaint number 498, the attorney was substituted out on May 13, 2011 hearing date when (b) (6) entered a notice of appearance. The complaint is moot.

With regard to complaint number 499, I spoke to the IJ today about the (b) (6) Circuit criticism and reiterated that (b) (6) cannot speak to represented respondent's in the absence of counsel. Closed with oral counseling.

---

**From:** Moutinho, Deborah (EOIR)  
**Sent:** Friday, June 24, 2011 11:59 AM  
**To:** Burr, Sarah (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

Hello,

You can just send me the updates, via email, I already have the initial form.

Deborah

---

**From:** Burr, Sarah (EOIR)  
**Sent:** Friday, June 24, 2011 11:46 AM  
**To:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

How do you want me to update them?

4852; 4857

## EOIR FOIA Processing (EOIR)

---

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**Sent:** Wednesday, June 29, 2011 2:49 PM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

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**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

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(b) (5)

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Let me know if that is ok.

Tx.

mtk

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**To:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

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**Sent:** Friday, June 24, 2011 11:59 AM  
**To:** Burr, Sarah (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

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You can just send me the updates, via email, I already have the initial form.

Deborah

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**From:** Burr, Sarah (EOIR)  
**Sent:** Friday, June 24, 2011 11:46 AM  
**To:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Open Complaints for 3rd Qtr

How do you want me to update them?

4857; 4852

**Moutinho, Deborah (EOIR)**

(b) (6)

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Monday, July 11, 2011 10:35 AM  
**To:** Moutinho, Deborah (EOIR)  
**Subject:** FW: Complaint re IJ (b) (6) - September 15, 2010 Anti-Muslim remark.

non responsive

---

**From:** Dean, Larry R. (EOIR)  
**Sent:** Thursday, July 07, 2011 12:57 PM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** RE: Complaint re IJ (b) (6) - September 15, 2010 Anti-Muslim remark.

July 1, 2011. Sorry.

Still have to write the complainant, too.

LRD

---

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Thursday, July 07, 2011 10:07 AM  
**To:** Dean, Larry R. (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Complaint re IJ (b) (6) - September 15, 2010 Anti-Muslim remark.

Larry,  
Don't forget to give us the date on this oral counseling...thanks!  
mtk

---

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Wednesday, June 29, 2011 12:02 PM  
**To:** Dean, Larry R. (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Complaint re IJ (b) (6) - September 15, 2010 Anti-Muslim remark.

Thank you -  
mtk

---

**From:** Dean, Larry R. (EOIR)  
**Sent:** Wednesday, June 29, 2011 11:58 AM  
**To:** Keller, Mary Beth (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Complaint re IJ (b) (6) - September 15, 2010 Anti-Muslim remark.

That's the plan. I am in (b) (6) tomorrow. I will close the counseling out then and will send an e-mail confirming.

LRD

---

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Wednesday, June 29, 2011 10:56 AM  
**To:** Dean, Larry R. (EOIR)  
**Cc:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Complaint re IJ (b) (6) - September 15, 2010 Anti-Muslim remark.

4864

7/11/2011

## Keller, Mary Beth (EOIR)

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**From:** Keller, Mary Beth (EOIR)  
**Sent:** Wednesday, August 10, 2011 1:19 PM  
**To:** Burr, Sarah (EOIR)  
**Subject:** Re: 2 IJC memos from the BIA

Sarah

I will take a look next week. Meantime, it sounds to me like the (b) (6) complaint may be dismissed as unsubstantiated. (b) (5) complaint may be dismissed as merits based. That's what you can tell them if you find that. If there is anything worth talking to (b) (5) about in terms of your thoughts about why (b) (5) was reversed then that is an option too. I didn't look closely at but did note - I think - that they reversed the discretion which is unusual -

Non-Responsive

Non-Responsive

Mtk

-----  
Sent from my BlackBerry Wireless Device

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**From:** Burr, Sarah (EOIR)  
**Sent:** Wednesday, August 10, 2011 12:29 PM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** 2 IJC memos from the BIA

Non-Responsive

I have had referred to me recently 2 IJC memos from the BIA and I am at a loss as to what, if anything, to do about them.

The first regards Judge (b) (6) and is complaint number 520. This regards an IJ decision, which the Board upheld, with a notation that the respondent alleges that the IJ ridiculed him and he did not receive a fair hearing. However, the decision goes on to note that the respondent points to nothing in the record, and presumably the Board found nothing in the record to substantiate this claim, with the BIA concluding that there is no showing that the hearing was not fairly conducted. (b) (5)

(b) (5)

The second case regards Judge (b) (5), and doesn't have a complaint number yet. I just got it Monday. In this case the BIA reversed a discretionary grant of asylum, agreeing with the government that the particular crimes committed by the respondent should bar asylum as a matter of discretion. The IJ wrote a comprehensive opinion, explaining in detail why (b) (5) granted in the exercise of discretion. I may not agree with (b) (5) determination, but it's his to make. What can I possibly say to the IJ about this, without intruding on (b) (6) judicial independence?

Sarah M. Burr  
Assistant Chief Immigration Judge  
26 Federal Plaza  
New York, N.Y.

4940



## Moutinho, Deborah (EOIR)

---

**From:** Kelly, Ed (EOIR)  
**Sent:** Monday, August 22, 2011 5:08 PM  
**To:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Status of Open Complaints in the Database

(b) (6) #524 is complete – oral counseling on 8/22/2011. (b) (5) Thanks, -Ed

---

**From:** Moutinho, Deborah (EOIR)  
**Sent:** Monday, August 22, 2011 1:13 PM  
**To:** Kelly, Ed (EOIR)  
**Subject:** RE: Status of Open Complaints in the Database

Thank you for your quick reply, I will close out # 519 as oral counseling on 8/17

Deborah

---

**From:** Kelly, Ed (EOIR)  
**Sent:** Monday, August 22, 2011 1:12 PM  
**To:** Moutinho, Deborah (EOIR)  
**Subject:** RE: Status of Open Complaints in the Database

Deborah,

# 519 -- IJ (b) (6) -- is done – oral counseling on 8-17-11.

# 524 (b) (6) will be done as soon as I talk to (b) (6) this week (b) (6) off to (b) (6) on detail but I'm going to give (b) (6) a call.) Cheers,

-Ed

---

**From:** Moutinho, Deborah (EOIR)  
**Sent:** Monday, August 22, 2011 1:07 PM  
**To:** Kelly, Ed (EOIR)  
**Cc:** Keller, Mary Beth (EOIR)  
**Subject:** Status of Open Complaints in the Database

Good Afternoon ACIJ Kelly

Per ACIJ Keller's request I am sending you a summary report of all open complaints from your courts currently in the database along with detail report that shows you the specifics concerning each of the open complaints.

After reviewing the reports please let me know if there are any updates and or resolutions to the open complaints – no need to complete a new complaint intake sheet just send me the update along with the corresponding complaint number found on the left hand side of the summary report.

Please let me know if you have any questions or require additional assistance.

Thank you  
Deborah

## EOIR FOIA Processing (EOIR)

---

**From:** Smith, Gary (EOIR)  
**Sent:** Tuesday, November 08, 2011 8:20 AM  
**To:** Keller, Mary Beth (EOIR); Moutinho, Deborah (EOIR)  
**Subject:** FW: RE IMMIGRATION JUDGE COMPLAINT.

Virginia told me this morning that this fellow (b) (6) called her at the Court last week and his tone gave her a lot of concern. I told her to let DHS know that he has been contacting the court.

---

**From:** IJConduct, EOIR (EOIR)  
**Sent:** Monday, November 07, 2011 1:58 PM  
**To:** (b) (6)  
**Subject:** RE: RE IMMIGRATION JUDGE COMPLAINT.

(b) (6)

Reference: (b) (6)

Dear Mr. (b) (6)

I received your correspondence of November 2, 2011, sent to the IJConduct website. I have reviewed the matters that you raised in your correspondence. My review revealed that your case was properly processed through the (b) (6) Immigration Court, and your case was heard on August 27, 2004. You were represented by counsel on appeal, and the Board of Immigration Appeals dismissed your appeal on November 30, 2005. You filed a Motion to Reopen with the Board of Immigration Appeals with assistance of counsel, and the Board of Immigration Appeals denied the Motion to Reopen on March 7, 2006. I have concluded that your case was properly processed through the court system.

Thank you for your correspondence, and I hope this has been responsive.

Sincerely,

*Gary W. Smith*

Gary W. Smith  
Assistant Chief

---

**From:** (b) (6)  
**Sent:** Wednesday, November 02, 2011 2:20 PM  
**To:** IJConduct, EOIR (EOIR)  
**Subject:** RE IMMIGRATION JUDGE COMPLAINT.

my name (b) (6)  
ALIEN NUMBER (b) (6)  
- CORT-(b) (6) INNGRATION COURT,CT,  
-JUDGE-

(b) (6)

4983

## EOIR FOIA Processing (EOIR)

---

**From:** Maggard, Print (EOIR)  
**Sent:** Monday, January 09, 2012 5:22 PM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** RE: IJC Memo - (b) (6) (December 27, 2011)

That sounds good, I talked to Jack a while about this one last week. I am trying to find time to go through the file and look for other discipline or training in the past. Thank you!

Print

**PRINT MAGGARD**  
**Assistant Chief Immigration Judge**  
**United States Immigration Court**  
**Executive Office for Immigration Review**  
**120 Montgomery Street, Suite 800**  
**San Francisco, CA 94104**

(b) (6)

---

**From:** Keller, Mary Beth (EOIR)  
**Sent:** Monday, January 09, 2012 1:36 PM  
**To:** Maggard, Print (EOIR)  
**Subject:** RE: IJC Memo - (b) (6) (December 27, 2011)

Print,  
I have not forgotten you! Will give you a call this week – maybe after our ACIJ mtg tomorrow? Since this one came in in 2012, it's not going to be part of this last quarter's (Oct 1, 2011 – Dec 31, 2011) report in terms of statistics, so, we have time.  
Mtk

---

**From:** Maggard, Print (EOIR)  
**Sent:** Wednesday, January 04, 2012 11:43 AM  
**To:** Keller, Mary Beth (EOIR)  
**Subject:** RE: IJC Memo - (b) (6) (December 27, 2011)

Mary Beth, I have reviewed the documents, I had already read this decision last week and knew this was coming. Whenever is a good time for you to talk to me about these just let me know. Non-Responsive

Non-Responsive

Thank you!

Print

**PRINT MAGGARD**  
**Assistant Chief Immigration Judge**  
**United States Immigration Court**  
**Executive Office of Immigration Review**  
**120 Montgomery Street, Suite 800**  
**San Francisco, CA 94104**

(b) (6)

---

**From:** Moutinho, Deborah (EOIR)  
**Sent:** Tuesday, January 03, 2012 8:15 AM

5034



**U.S. Department of Justice**  
Executive Office for Immigration Review

*Office of the Chief Immigration Judge*

---

5107 Leesburg Pike, Suite 2500  
Falls Church, Virginia 22041

January 25, 2012

(b) (6)

Re: Complaints concerning Immigration Judges Non-Responsive (b) (6)

Dear (b) (6)

I have received your two letters dated January 18, 2012 regarding denials of your motions for continuance by Immigration Judges (b) (6) and (b) (6). Although I cannot address the merits of those decisions, which would properly be submitted by appeal to the Board of Immigration Appeals, I will carefully consider your complaint and take any further action I may deem necessary.

Thank you for bringing this matter to my attention.

Sincerely,

Deepali Nadkarni  
Assistant Chief Immigration Judge

5052

Subject: Complaint re Matter of (b) (6) (IJ (b) (6))

ACIJ Keller,

Attached is the completed IJ Complaint Intake form with my response letter to the complainant former attorney attached. I found no merit in the complaint as the allegations were disproved if not outright frivolous.

It was the uncooperative and challenging response of IJ (b) (6) to (b) (6) obligations to assist me in this review that was more troubling than the complaint itself. As noted in my written (email) and oral counsel to (b) (6) resisted and still challenged my supervisory authority in the area. (b) (6) still appears to adhere to the old belief that, as (b) (6) stated "I am a judge!" with independent authority that should not be questioned or impinged upon by someone (b) (6) does not respect. (b) (6) asserted that I have not given (b) (6) respect, although (b) (6) noted in the same breath that "You must earn my respect."

Note a copy of the response letter also sent to Scott Rosen, GC.

The life and challenges of an ACIJ.

Thomas Y.K. Fong  
Assistant Chief Immigration Judge  
Immigration Court/EOIR/DOJ  
606 South Olive Street, 15th Floor  
Los Angeles, CA 90014  
(213)894-2811  
[thomas.fong@usdoj.gov](mailto:thomas.fong@usdoj.gov)

5229

actions taken		
date	action	initials
8/9/12	Routed by email the complaint letter of attorney; inquires made to determine how the (b) (6) Bar evidences attorneys licensed to practice by them. A number of IJs members of the (b) (6) Bar and/or knowledgeable respond to my request. They also provide internet bar site references for me to review. I send out an email to all IJs pointing out what is provided to (b) (6) bar attys to show licensing. See attached emails. I further send a separate email to IJ (b) (6) to call me on this matter as the complaint specifically identified (b) (6) as the IJ in this complaint; although failing to provide the case ROP number or other identifying information. I am trying to talk to IJ (b) (6) to see if (b) (6) has info that an id this and save the need to contact the atty for that information.	
8/9-13/12	Emails back and forth between IJ (b) (6) and me take place. IJ (b) (6) takes exception to my request and ultimate requirement that she come down and meet me to talk about this complaint. See attached emails. (b) (6) does locate the ROPs and delivers them to me later that day. Review of the ROPs taking place to formulate a response.	
8/14/12	IJ (b) (6) sent a response email (attached below) still arguing (b) (6) recollection of our meeting, but ignoring the majority of my email that (b) (6) could not challenge because (b) (6) email responses supported my statements and positions. (b) (6) does end response by stating. "I expect, however, that this incident will not interfere with any of our future interactions."	
8/14/12	During the mid-term PWP eval interview today (b) (6) reiterated (b) (6) disagreement with my management style and alleged mistreatment of her. During the interview (b) (6) noticed (b) (6) PWP file had papers other then just (b) (6) PWP form. (b) (6) wanted to know what these papers were. I indicated that they were papers submitted that could be relevant to (b) (6) PWP evals, like compliments and kudos, complaints, extracurricular activities, docs (b) (6) was allowed to provide. (b) (6) challenged my authority to keep records on (b) (6) and further noted that other IJs PWP files on my desk contained such materials. (b) (6) demanded to see them. I stated just like in the past, when it was used for PWP eval or a complaint I would provide those to (b) (6) but otherwise I did not do so to avoid possible issues later --- like a complaint I found w/o merit being given a judge that then could be accused by the complainant of being bias or grounds for recusal; tracking actions by an IJ that might later establ a pattern of conduct but alone may not be consequential, etc. (b) (6) emphasized "I am a judge!" (b) (6) clearly still takes issue at anyone supervising (b) (6) or reviewing (b) (6) work.	
8/?/12	Note to report: The complaint itself was relatively easy to resolve upon research on the issue. It is IJ (b) (6) resistance to any review, (b) (6) tone and defiant attitude challenging a supervisor's authority which is surprising. A similar view (b) (6) exhibited to a complaint I reviewed a year or two ago. (b) (6) continues to question supervisory review of (b) (6) actions, and appears to take offense that anyone would question (b) (6) "judicial conduct".	
8/29/12	I completed review of the ROP, DAR and most carefully the two EOIR-28s	


**From:** (b) (6) (EOIR)  
**Sent:** Monday, August 13, 2012 4:45 PM  
**To:** Fong, Thomas (EOIR)  
**Subject:** RE: RE: Bar License Question and EOIR-28 Notices of Atty Repr

# Non-Responsive

(b) (6)

**From:** Fong, Thomas (EOIR)  
**Sent:** Monday, August 13, 2012 3:32 PM  
**To:** (b) (6) (EOIR)  
**Subject:** RE: Bar License Question and EOIR-28 Notices of Atty Repr

(b) (6)

We met today before I read your email below and if nothing else is clear --- both you and I misunderstood each others communications and the intent of our emails to each other.

As I indicated to you in our meeting this morning, I believed that my emails (albeit contrary to your interpretation of them, you stated) indicated that this was a matter requiring expeditious action by both of us. You acknowledged that from past meetings you and I have held, and separately I also note, emphasized in past IJ Meetings held with all IJs, that complaints against IJs are the priority assignment and duty of ACIJs. The words I have used in the past and stated to you in our conversation today --- is that the CIJ instructed that when a complaint comes to an ACIJ's attention that you drop everything else and make it your priority. I believe I had imparted

5234

this to all IJs before, as did a past IJ Conference Training given on this issue. It has been so since former AG Alberto Gonzales' 22 points of mandated changes for EOIR issued under his administration a number of years ago in response to judicial, public and congressional criticism of the IJ Corps and EOIR.

With the above background preceding came this complaint noted in my below emails. I specifically asked of you last Friday (in a 7:14am email responding to your Thursday afternoon email) to meet with me when you emailed me that you had memory of this matter. I responded in email, "But I do need to talk with you so you can tell me what (b) (6) failed to do and what case this involves so I can listen to the DAR recording before I respond to his letter and allegations". I believed this email and the background about how complaints against IJs are the top priority for ACIJs and IJs, called for us to work together on this expeditiously.

(b) (6)



# Non-Responsive

Thank you for locating the Records of Proceeding and delivering them to my AA (b) (6) this morning. As I noted in our discussion today, since the complaint letter did not contain a case number, name or other identifying information, I needed to talk with you and get your help in determining which case and ROP involved this complaint or I would have been required to write a letter requesting more information from the complaining attorney. Once I have completed my review, I will contact you to complete discussion of this matter.

Tom

Thomas Y.K. Fong  
Assistant Chief Immigration Judge  
Immigration Court/EOIR/DOJ  
606 South Olive Street, 15th Floor  
Los Angeles, CA 90014  
(213)894-2811  
[thomas.fong@usdoj.gov](mailto:thomas.fong@usdoj.gov)

-----Original Message-----

From: Bither, Christine (EOIR)  
Sent: Monday, August 13, 2012 7:28 AM  
To: Fong, Thomas (EOIR)  
Subject: RE: Bar License Question and EOIR-28 Notices of Atty Repr

# Non-Responsive

-----Original Message-----

From: Fong, Thomas (EOIR)  
Sent: Friday, August 10, 2012 4:16 PM  
To: (b) (6) (EOIR)  
Subject: RE: Bar License Question and EOIR-28 Notices of Atty Repr  
Importance: High

(b) (6)

5236

# Non-Responsive

Thomas Y.K. Fong  
Assistant Chief Immigration Judge  
Immigration Court/EOIR/DOJ  
606 South Olive Street, 15th Floor  
Los Angeles, CA 90014  
(213)894-2811  
thomas.fong@usdoj.gov

-----Original Message-----

From: (b) (6) (EOIR)  
Sent: Friday, August 10, 2012 3:56 PM  
To: Fong, Thomas (EOIR)  
Subject: RE: Bar License Question and EOIR-28 Notices of Atty Repr

# Non-Responsive

-----Original Message-----

From: Fong, Thomas (EOIR)  
Sent: Friday, August 10, 2012 12:44 PM  
To: (b) (6) (EOIR)  
Subject: RE: Bar License Question and EOIR-28 Notices of Atty Repr

(b) (6)

Thomas Y.K. Fong  
Assistant Chief Immigration Judge  
Immigration Court/EOIR/DOJ  
606 South Olive Street, 15th Floor  
Los Angeles, CA 90014  
(213)894-2811  
thomas.fong@usdoj.gov

-----Original Message-----

From: (b) (6) (EOIR)  
Sent: Friday, August 10, 2012 12:22 PM  
To: Fong, Thomas (EOIR)  
Subject: RE: Bar License Question and EOIR-28 Notices of Atty Repr

(b) (6)

-----Original Message-----

From: Fong, Thomas (EOIR)  
Sent: Friday, August 10, 2012 7:38 AM  
To: (b) (6) (EOIR)  
Subject: RE: Bar License Question and EOIR-28 Notices of Atty Repr

Absolutely, I will give you a copy when you come down when we discuss it.

5237

## EOIR FOIA Processing (EOIR)

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**From:** Weil, Jack (EOIR)  
**Sent:** Friday, January 18, 2013 9:46 AM  
**To:** O'Leary, Brian (EOIR); McGoings, Michael (EOIR); Keller, Mary Beth (EOIR); Kelly, Ed (EOIR); Scheinkman, Rena (EOIR); Rosenblum, Jeff (EOIR)  
**Cc:** Weil, Jack (EOIR)  
**Subject:** 1/17/13 Probationary Period Determination for U (b) (6)  
**Attachments:** SAR chart.docx

Dear All,

The probationary period for Immigration Judge (b) (6) ends on (b) (6)

# (b)(5) & Non-Responsive